

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

W. T. PURNELL, JR.,

Plaintiff,

vs.

LVNV FUNDING, LLC,

Defendant.

Civil Action No.:

2:15-cv-00170-LSC

JOINT MOTION FOR ENTRY OF JUDGMENT

COMES NOW the Plaintiff, W.T. Purnell, Jr., and Defendant, LVNV Funding, LLC, by and through undersigned counsel, and moves this Honorable Court for an Entry of Judgment and in support, shows unto this Court:

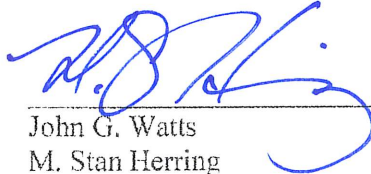
1. Defendant LVNV, LLC ("LVNV") served its offer of judgment on March 16, 2016. *See* Exhibit A.
2. Plaintiff accepted the offer of judgment within the 14 day time period set forth within Rule 68(a).
3. The Offer of Judgment provides for a judgment in the amount of \$3,500.00 and "does not include costs and attorney fees, which will be decided by this Honorable Court, or by stipulation among the Parties."
4. This Honorable Court set a telephone conference on April 4, 2016, regarding attorney fees.

5. After the telephone conference, attorney's fees have been resolved by the Parties. As such, the Parties respectfully request this Honorable Court enter the proposed Order attached hereto as Exhibit B.

WHEREFORE, PREMISES CONSIDERED, the Parties respectfully request this Honorable Court grant this motion and enter the Order attached hereto as Exhibit B.

Respectfully submitted,

/s/Neal D. Moore, III
Neal D. Moore, III
Attorney for Defendant
FERGUSON, FROST, MOORE &
YOUNG, LLP
1400 Urban Center Drive, Suite 200
Birmingham, Alabama 35242
Phone: (205)879-8722


John G. Watts
M. Stan Herring
Attorneys for Plaintiff
Watts & Herring, LLC
301 19th Street North
Birmingham, Alabama 35203

CERTIFICATE OF SERVICE

This is to certify that on this ___ day of April, 2016 a copy of the forgoing document has been served upon counsel for all parties to this proceeding via E-file:

John G. Watts
M. Stan Herring
Watts & Herring, LLC
The Kress Building
301 19th Street North
Birmingham, Alabama 35203

/s/ Neal D. Moore, III
OF COUNSEL

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
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OFFER OF JUDGMENT

COMES NOW the Defendant, LVNV Funding, LLC, and on this 16th day of March, 2016, offer to allow judgment to be taken in this matter, pursuant to Federal Rule of Civil Procedure 68, on the terms, grounds and conditions set forth below:


1. Judgment shall be entered against LVNV Funding, LLC, in favor of the Plaintiff, in the amount of Three Thousand Five Hundred Dollars (\$3,500.00). This judgment shall be in full satisfaction of any and all damages allowed, allowable or claimed by Plaintiff in this matter against any Defendant arising from or related to the events, act and occurrences alleged in this matter. This does not include costs and attorney fees, which will be decided by this Honorable Court, or by stipulation among the Parties.

2. Defendant expressly denies any wrongdoings with regard to each and every claim asserted by the Plaintiff, including violations of any state or federal law or procedure. An admission of liability is not a requirement for a valid offer of judgment

under the provisions of Rule 68 of the Federal Rules of Civil Procedure. *See Mite v. Falstaff Brewing Corp.*, 106 F.R.D. 434, 435 (N.D. Ill. 1985) (acknowledging an offer of judgment may expressly disclaim liability of the offeror); *see also Coleman v. McLaren*, 92 F.R.D. 754, 757 (N.D. Ill. 1981) (recognizing an offer of judgment may provide the offer is not to be construed as an admission of liability by the offeror); *see McCauley v. Trans Union, L.L.C.*, 402 F.3d 340, 341 (2nd Cir. 2005) (stating, “a party cannot force his opponent to confess to having violated the law, as it is always open to a defendant to default and suffer judgment to be entered against him without his admitting anything”); *See also Chathas v. Local 134 IBEW*, 233 F.3d 508, 512 (7th Cir. 2000); *Mallory v. Eyrich*, 912 F.2d 1273, 1278-79 (6th Cir. 1991). It is not the intention of the Defendant that this offer have any collateral effect, preclusive effect, or any form of estoppel regarding any other past, present, or future litigation against the Defendant. This offer is made to settle a case and end the continued expense of litigation.

3. If this offer is rejected, pursuant to Rule 68 of the Federal Rules of Civil Procedure, the Defendant may seek to recover any additional costs and disbursements incurred in the defense of this case then accrued at the conclusion of the matter, if applicable. Also, if rejected, and as applicable, any costs and attorney’s fees incurred by the Plaintiff after the making of the Offer will be the responsibility of the Plaintiff, as well as the cost of the Defendant, as may be permitted by law. *See O’Brien v. City Greers Ferry*, 873 F.2d 1115, 1120 (8th Cir. 1989); *Jordan v. Time, Inc.*, 111 F.3d 102 (11th Cir. 1997).

Respectfully submitted,

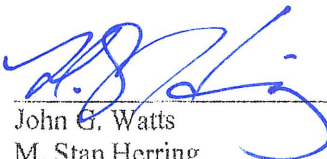


Neal D. Moore, III
Attorney for Defendant

OF COUNSEL:

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1400 Urban Center Drive, Suite 200
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Phone: (205)879-8722

ACCEPTED:



John G. Watts
M. Stan Herring
Attorneys for Plaintiff

OF COUNSEL:

Watts & Herring, LLC
301 19th Street North
Birmingham, Alabama 35203

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
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PROPOSED ORDER FOR FINAL JUDGMENT

This matter came before the court on the Joint Motion for Entry of Judgment (Doc. 19). Pursuant to Rule 68 and upon consideration of the Offer of Judgment (Doc. 18), the court ORDERS that Judgment is entered against Defendant, LVNV Funding, LLC for \$3,500.00. The parties have stipulated to the amount for attorney's fees. The court DISMISSES the case with prejudice against ALL.

DONE and ORDERED this ____ day of April 2016.

L. SCOTT COOGLER
UNITED STATES DISTRICT JUDGE